

MAR 16 2010

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION

JOHN F. CORCORAN, CLERK  
BY: *J. Craft*  
DEPUTY CLERK

UNITED STATES OF AMERICA

Case No. 7:04-cr-00066-1

v.

§ 2255 ORDER

MARCUS LAMONT SUMBLIN,  
Petitioner.

By: Hon. James C. Turk  
Senior United States District Judge

For the reasons stated in the accompanying memorandum opinion, it is hereby

**ORDERED**

that petitioner's petition for a writ of audita querela (no. 172) is **CONSTRUED** as a motion to vacate, set aside or correct sentence, pursuant to 28 U.S.C. § 2255; the Clerk shall **OPEN** a new action for this § 2255 motion; this new § 2255 action is **DISMISSED without prejudice** as a successive § 2255 motion; a Certificate of Appealability is **DENIED**; and the case is **STRICKEN** from the active docket of the court.

The Clerk is directed to send copies of this order and the accompanying memorandum opinion to petitioner and to counsel of record for the United States.

ENTER: This 16<sup>th</sup> day of March, 2010.

*James C. Turk*  
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Senior United States District Judge